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To: Economic Dev, Tourism
and Parks; Finance

SENATE BILL NO. 3057

1 AN ACT TO CREATE THE "MISSISSIPPI QUALITY JOBS PROGRAM ACT";
2 TO AUTHORIZE THE STATE TAX COMMISSION TO MAKE INCENTIVE PAYMENTS
3 FOR ESTABLISHMENTS ENGAGING IN CERTAIN BASIC INDUSTRIES; TO CREATE
4 THE INCENTIVE APPROVAL COMMITTEE WHOSE DUTY SHALL BE TO DETERMINE
5 WHETHER AN ESTABLISHMENT IS A BASIC INDUSTRY AS DEFINED IN THIS
6 ACT; TO PROVIDE THAT QUALIFIED ESTABLISHMENTS MAY RECEIVE
7 QUARTERLY INCENTIVE PAYMENTS FOR A TEN-YEAR PERIOD IN AN AMOUNT
8 EQUAL TO THE TAX BENEFITS THAT ACCRUE TO THE STATE AS A RESULT OF
9 NEW DIRECT JOBS MINUS THE ESTIMATED DIRECT STATE COSTS COMPUTED AS
10 A PERCENTAGE OF GROSS PAYROLL OF THE ESTABLISHMENT, MULTIPLIED BY
11 THE ACTUAL GROSS PAYROLL OF NEW DIRECT JOBS FOR A CALENDAR QUARTER
12 AS VERIFIED BY THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; TO
13 PROVIDE THAT APPLICATION FOR INCENTIVE PAYMENTS SHALL BE MADE TO
14 THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT; TO PROVIDE
15 THE CRITERIA FOR ELIGIBILITY FOR INCENTIVE PAYMENTS; TO CREATE THE
16 MISSISSIPPI QUALITY JOBS PROGRAM INCENTIVE PAYMENT FUND FROM WHICH
17 INCENTIVE PAYMENTS SHALL BE MADE PURSUANT TO THIS ACT; TO PROVIDE
18 THAT SUCH FUND SHALL BE FUNDED BY LEGISLATIVE APPROPRIATION; TO
19 PROVIDE THAT THE LIABILITY OF THE STATE TO MAKE INCENTIVE PAYMENTS
20 UNDER THIS ACT SHALL BE LIMITED TO THE BALANCE CONTAINED IN SUCH
21 FUND; TO PROVIDE FOR CRIMINAL PENALTIES FOR WILLFULLY MAKING A
22 FALSE OR FRAUDULENT APPLICATION, CLAIM, REPORT, RETURN, STATEMENT,
23 INVOICE OR OTHER INSTRUMENT OR FOR WILLFULLY MAKING A FALSE OR
24 FRAUDULENT STATEMENT IN CONNECTION WITH THIS ACT; AND FOR RELATED
25 PURPOSES.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

27 SECTION 1. This act shall be known and may be cited as the
28 "Mississippi Quality Jobs Program Act."

29 SECTION 2. It is the intent of the Legislature that:

30 (a) The State of Mississippi provide appropriate
31 incentives to support establishments of basic industries that hold
32 the promise of significant development of the economy of the State
33 of Mississippi;

34 (b) The amount of incentives provided under this act in
35 connection with a particular establishment:

36 (i) Be directly related to the jobs created as a
37 result of the establishment locating in the State of Mississippi;

38 and

39 (ii) Not exceed the estimated net direct state
40 benefits that will accrue to the state as a result of the
41 establishment locating in the State of Mississippi;

42 (c) The Department of Economic and Community
43 Development and the State Tax Commission shall implement the
44 provisions of this act and exercise all powers as authorized in
45 this act. The exercise of powers conferred by this act shall be
46 deemed and held to be the performance of essential public
47 purposes; and

48 (d) Nothing in this act shall be construed to
49 constitute a guarantee or assumption by the State of Mississippi
50 of any debt of any individual, company, corporation or association
51 nor to authorize the credit of the State of Mississippi to be
52 given, pledged or loaned to any individual, company, corporation
53 or association.

54 SECTION 3. (1) As used in this act, the following words and
55 phrases shall have the meanings ascribed in this section unless
56 the context clearly indicates otherwise:

57 (a) "Basic industry" means:

58 (i) Manufacturing, as defined or classified under
59 Division D of the Standard Industrial Classification Manual,
60 latest version;

61 (ii) Administrative and auxiliary services that
62 are assigned a one-digit auxiliary code in the Standard Industrial
63 Classification Manual, and are described therein as Central
64 Administrative Offices, which means central centers that influence
65 the environment in which data processing, customer service, credit
66 accounting, telemarketing, claims processing, information
67 processing and other administrative functions are accomplished;

68 (iii) Research, Development and Testing
69 Laboratories;

70 (iv) An activity described by Industry Group

71 Number 873 of Major Group 87, Division I of the Standard
72 Industrial Classification Manual, latest revision, Industry
73 Numbers 8731, 8732, 8733 and 8734;

74 (v) An activity related to research and
75 development as described by Auxiliary Code Number 2 of the
76 Standard Industrial Classification Manual, latest revision;

77 (vi) Warehouses that serve as distribution centers
78 for retail or wholesale businesses, if seventy-five percent (75%)
79 of the inventory processed through such warehouse is shipped
80 out-of-state;

81 (vii) Adjustment and collection services, as
82 defined or classified under Industry Number 7322 of Major Group 73
83 of the Standard Industrial Classification Manual, latest version,
84 if seventy-five percent (75%) of the loans to be serviced were
85 made by out-of-state debtors;

86 (viii) 1. Transportation by air, as defined or
87 classified under Major Group 45 of the Standard Industrial
88 Classification Manual, latest version, if the following facilities
89 are located in this state:

90 a. The corporate headquarters of an
91 establishment classified therein; and

92 b. A facility or facilities at which
93 reservations for transportation provided by such an establishment
94 are processed, whether such services are performed by employees of
95 the establishment, by employees of a subsidiary of or other entity
96 affiliated with the establishment or by employees of an entity
97 with whom the establishment has contracted for the performance of
98 such services. This provision shall not disqualify an
99 establishment that uses an out-of-state entity or employees for
100 some reservations services; or

101 2. Transportation by air, as defined or
102 classified under Major Group 45 of the Standard Industrial
103 Classification Manual, latest version, if an establishment

104 classified therein has or will have within one (1) year sales of
105 at least seventy-five percent (75%) of its total sales, as
106 determined by the Incentive Approval Committee, to out-of-state
107 customers or buyers, to in-state customers or buyers if the
108 product or service is resold by the purchaser to an out-of-state
109 customer or buyer for ultimate use, or to the federal government;
110 or

111 (ix) The following, if an establishment classified
112 therein has or will have within one (1) year sales of at least
113 seventy-five percent (75%) of its total sales, as determined by
114 the Incentive Approval Committee, to out-of-state customers or
115 buyers, to in-state customers or buyers if the product or service
116 is resold by the purchaser to an out-of-state customer or buyer
117 for ultimate use, or to the federal government:

118 1. Motor freight transportation and
119 warehousing, as defined or classified under Major Group 42 of the
120 Standard Industrial Classification Manual, latest version;

121 2. Arrangement of passenger transportation,
122 as defined or classified under Industry Group 472 of the Standard
123 Industrial Classification Manual, latest version;

124 3. Arrangement of transportation of freight
125 or cargo, as defined or classified under Industry Group 473 of the
126 Standard Industrial Classification Manual, latest version;

127 4. Insurance carriers, as defined or
128 classified under Major Group 63 of the Standard Industrial
129 Classification Manual, latest version;

130 5. Mailing, reproduction, commercial art and
131 photography and stenographic services, as defined or classified
132 under Industry Group 733 of the Standard Industrial Classification
133 Manual, latest version;

134 6. Services to dwellings and other buildings,
135 as defined or classified under Industry Group 734 of the Standard
136 Industrial Classification Manual, latest version;

137 7. Miscellaneous equipment rental and
138 leasing, as defined or classified under Industry Group 735 of the
139 Standard Industrial Classification Manual, latest version;
140 8. Personnel supply services, as defined or
141 classified under Industry Group 736 of the Standard Industrial
142 Classification Manual, latest version;
143 9. Computer programming, data processing,
144 information processing and other computer-related services, as
145 defined or classified under Industry Group 737 of the Standard
146 Industrial Classification Manual, latest version;
147 10. Miscellaneous business services, as
148 defined or classified under Industry Group 738 of the Standard
149 Industrial Classification Manual, latest version;
150 11. Medical and dental laboratories, as
151 defined or classified under Industry Group 807 of the Standard
152 Industrial Classification Manual, latest version;
153 12. Engineering and management services, as
154 defined or classified under Major Group 87 of the Standard
155 Industrial Classification Manual, latest version;
156 13. Communication services, as defined or
157 classified under Industrial Number 4899 of Major Group 48 of the
158 Standard Industrial Classification Manual, latest version;
159 14. General wholesale distribution of
160 groceries, as described in Industry Number 5141 of the Standard
161 Industrial Classification Manual, latest version; and
162 15. Processing of insurance claims, as
163 described in Industry Number 6411 of the Standard Industrial
164 Classification Manual, latest version; provided, activities
165 described in Industry Number 6411 of the Standard Industrial
166 Classification Manual, latest version, other than processing of
167 insurance claims shall not be included for purposes of this
168 subdivision.

169 An establishment shall not be considered to be engaged in a

170 basic industry unless it offers, or will offer within one hundred
171 twenty (120) days of the date it receives the first incentive
172 payment pursuant to the provisions of this act, a basic health
173 benefits plan to the individuals it employs in new direct jobs in
174 this state which is determined by the Department of Economic and
175 Community Development to consist of the following elements or
176 elements substantially equivalent thereto:

177 (i) Not less than fifty percent (50%) of the
178 premium shall be paid by the employer;

179 (ii) Coverage for basic hospital care;

180 (iii) Coverage for physician care;

181 (iv) Coverage for mental health care;

182 (v) Coverage for substance abuse treatment;

183 (vi) Coverage for prescription drugs; and

184 (vii) Coverage for prenatal care;

185 (b) "New direct job" means full-time-equivalent
186 employment in this state in an establishment that has qualified to
187 receive an incentive payment pursuant to this act, which
188 employment did not exist in this state before the date of approval
189 by the Department of Economic and Community Development of the
190 application of the establishment pursuant to the provisions of
191 this act. "New direct job" shall include full-time-equivalent
192 employment in this state of employees who are employed by an
193 entity other than the establishment that has qualified to receive
194 an incentive payment and who are leased or otherwise provided to
195 the qualified establishment, if such employment did not exist in
196 this state before the date of approval by the Department of
197 Economic and Community Development of the application of the
198 establishment. A job shall be deemed to exist in this state
199 before approval of an application if the activities and functions
200 for which the particular job exists have been ongoing at any time
201 within six (6) months before such approval;

202 (c) "Estimated direct state benefits" means the tax

203 revenues projected by the Department of Economic and Community
204 Development to accrue to the state as a result of new direct jobs;

205 (d) "Estimated direct state costs" means the costs
206 projected by the Department of Economic and Community Development
207 to accrue to the state as a result of new direct jobs. Such costs
208 shall include, but not be limited to:

209 (i) The costs of education of new state resident
210 children;

211 (ii) The costs of public health, public safety and
212 transportation services to be provided to new state residents;

213 (iii) The costs of other state services to be
214 provided to new state residents; and

215 (iv) The costs of other state services;

216 (e) "Estimated net direct state benefits" means the
217 estimated direct state benefits less the estimated direct state
218 costs;

219 (f) "Net benefit rate" means the estimated net direct
220 state benefits computed as a percentage of gross payroll. In no
221 event shall incentive payments, cumulatively, exceed the estimated
222 net direct state benefits;

223 (g) "Gross payroll" means wages for new direct jobs;
224 and

225 (h) "Establishment" means any business or governmental
226 entity, no matter what legal form, including, but not limited to,
227 a sole proprietorship; partnership; corporation or combination of
228 corporations which have a central parent corporation which makes
229 corporate management decisions such as those involving
230 consolidation, acquisition, merger or expansion; federal agency;
231 political subdivision of the State of Mississippi; or trust
232 authority; provided, distinct, identifiable subunits of such
233 entities may be determined to be an establishment, for all
234 purposes of this act, by the Department of Economic and Community
235 Development subject to the following conditions:

236 (i) The entity shall have certain minimum payroll
237 levels depending upon their location within the state in order to
238 qualify for Mississippi Quality Jobs Program. Such minimum
239 payroll levels shall be based on one (1) classification of the
240 county in which the entity is located as established in Section
241 57-71-21. In counties designated as developed areas entities
242 shall have or will create a minimum new payroll of Two Million
243 Five Hundred Thousand Dollars (\$2,500,000.00). In counties that
244 are designated as moderately developed areas entities shall have
245 or will create a minimum payroll of One Million Five Hundred
246 Thousand Dollars (\$1,500,000.00). In counties designated as less
247 developed areas entities shall have or will create a minimum new
248 payroll of One Million Dollars (\$1,000,000.00). Payroll
249 requirements shall be based on the designation of the county at
250 the time of the application. The threshold established upon
251 application will remain constant for the duration of the project;

252 (ii) The subunit is engaged in an activity or
253 service or produces a product which is demonstratively independent
254 and separate from the entity's other activities, services or
255 products and could be conducted or produced in the absence of any
256 other activity, service or production of the entity;

257 (iii) The entity has an accounting system capable
258 of tracking or facilitating an audit of the subunit's payroll,
259 expenses, revenue and production. Limited interunit overlap of
260 administrative and purchasing functions shall not disqualify a
261 subunit from consideration as an establishment by the Department
262 of Economic and Community Development; and

263 (iv) It is determined by the Department of
264 Economic and Community Development that the entity will have a
265 probable net gain in total employment within the incentive period.

266 The Department of Economic and Community Development may
267 promulgate rules to further limit the circumstances under which a
268 subunit may be considered an establishment. The Department of

269 Economic and Community Development shall promulgate rules to
270 determine whether a subunit of an entity achieves a net gain in
271 total employment. The Department of Economic and Community
272 Development shall establish criteria for determining the period of
273 time within which such gain must be demonstrated and a method for
274 determining net gain in total employment.

275 SECTION 4. There is created the Incentive Approval Committee
276 which shall consist of the Executive Director of the Department of
277 Economic and Community Development, the Executive Director of the
278 Department of Finance and Administration and the Chairman of the
279 State Tax Commission. The committee shall determine, upon initial
280 application on a form approved by the committee, if an
281 establishment is engaged in a basic industry as defined in Section
282 3 of this act.

283 SECTION 5. (1) Except as otherwise provided in subsection
284 (8) of this section, an establishment that meets the
285 qualifications specified in the Mississippi Quality Jobs Program
286 Act may receive quarterly incentive payments for a ten-year period
287 from the State Tax Commission pursuant to the provisions of the
288 Mississippi Quality Jobs Program Act in an amount which shall be
289 equal to the net benefit rate multiplied by the actual gross
290 payroll of new direct jobs for a calendar quarter as verified by
291 the Mississippi Employment Security Commission.

292 (2) In order to receive incentive payments, an establishment
293 shall apply to the Department of Economic and Community
294 Development. The application shall be on a form prescribed by the
295 department and shall contain such information as may be required
296 by the department to determine if the applicant is qualified.

297 (3) Except as otherwise provided by subsection (4) or (5) of
298 this section, in order to qualify to receive such payments, the
299 establishment applying shall be required to:

300 (a) Be engaged in a basic industry;

301 (b) Have certain minimum payroll levels depending upon

302 their location within the state in order to qualify for
303 Mississippi Quality Jobs Program. Those minimum payroll levels
304 shall be based on the classification of the county in which the
305 entity is located as established in Section 57-71-21. In counties
306 designated as developed areas entities shall have or will create a
307 minimum new payroll of Two Million Five Hundred Thousand Dollars
308 (\$2,500,000.00). In counties that are designated as moderately
309 developed areas entities shall have or will create a minimum
310 payroll of One Million Five Hundred Thousand Dollars
311 (\$1,500,000.00). In counties designated as less developed areas
312 entities shall have or will create a minimum new payroll of One
313 Million Dollars (\$1,000,000.00). The criteria for this
314 requirement shall be based on the designation of the county at the
315 time of the application. The threshold established upon
316 application will remain constant for the duration of the project;

317 (c) Have a number of full-time-equivalent employees
318 working an average of twenty-five (25) or more hours per week in
319 new direct jobs equal to or in excess of eighty percent (80%) of
320 the total number of new direct jobs.

321 (4) In order to qualify to receive incentive payments as
322 authorized by the Mississippi Quality Jobs Program Act, an
323 establishment engaged in an activity described under:

324 (a) Any industry group number and division of the
325 Standard Industrial Classification Manual set forth in Section 3
326 of this act and meeting the requirement as set forth shall be
327 required to:

328 (i) Have an annual gross payroll for new direct
329 jobs projected by the Department of Economic and Community
330 Development to equal or exceed Two Million Five Hundred Thousand
331 Dollars (\$2,500,000.00) if located in a county designated as a
332 developed area under Section 57-71-21, or a payroll equal or
333 exceeding One Million Five Hundred Thousand Dollars
334 (\$1,500,000.00) if located in an county designated as a moderately

335 developed area under Section 57-71-21, or a payroll equal or
336 exceeding One Million Dollars (\$1,000,000.00) if located in a
337 county designated as a less developed area under Section 57-71-21,
338 within three (3) years of the anticipated date on which the
339 establishment will receive its first incentive payment.

340 (ii) Have a number of full-time-equivalent
341 employees working an average of twenty-five (25) or more hours per
342 week in new direct jobs equal to or in excess of eighty percent
343 (80%) of the total number of new direct jobs;

344 (b) Any Industry Group Number and Division of the
345 Standard Industrial Classification Manual, including those
346 identified in paragraph (a) of this subsection which are
347 identified as the "Targeted Industry Groups" of the Mississippi
348 Department of Economic and Community Development for the State of
349 Mississippi shall receive an automatic additional one percent (1%)
350 priority to be added to the base payroll incentive, provided,
351 however, that the net benefit rate shall not exceed five percent
352 (5%) of total benefit and shall be required to meet the
353 requirements of paragraphs (a)(i) and (ii) of this subsection.

354 (5) An establishment that locates its principal business
355 activity on a site consisting of at least ten (10) acres which has
356 been determined to be contaminated by any substance regulated by a
357 federal or state statute governing environmental conditions for
358 real property and which:

359 (a) Is a federal Superfund removal site;

360 (b) Is listed on the National Priorities List
361 established under Section 9605 of Title 42 of the United States
362 Code;

363 (c) Has been formally deferred to the state in lieu of
364 listing on the National Priorities List; or

365 (d) Has been remediated pursuant to an order of the
366 Department of Environmental Quality, shall qualify for incentive
367 payments irrespective of its actual gross payroll or the number of

368 full-time-equivalent employees engaged in new direct jobs.

369 In order to qualify for the incentive payments pursuant to
370 this subsection (5), the establishment shall conduct the activity
371 resulting in at least eighty percent (80%) of its total annual
372 gross revenue, whether from the sale of products or services or
373 both products and services, at the physical location which has
374 been determined not to comply with the federal or state statutes
375 described in this subsection (5) with respect to environmental
376 conditions for real property. The establishment shall be subject
377 to all other requirements of the Mississippi Quality Jobs Program
378 Act other than the exemptions provided by this subsection (5).

379 (6) The Department of Economic and Community Development
380 shall determine if the applicant is qualified to receive incentive
381 payments. If the applicant is determined to be qualified by the
382 department, the department shall conduct a cost/benefit analysis
383 to determine the estimated net direct state benefits and the net
384 benefit rate applicable for a ten-year period and to estimate the
385 amount of gross payroll for a ten-year period. In conducting such
386 cost/benefit analysis, the department shall consider quantitative
387 factors, such as the anticipated level of new tax revenues to the
388 state along with the added cost to the state of providing
389 services, and such other criteria as deemed appropriate by the
390 department. In no event shall incentive payments, cumulatively,
391 exceed the estimated net direct state benefits.

392 (7) Upon approval of such an application, the Department of
393 Economic and Community Development shall notify the State Tax
394 Commission and shall provide it with a copy of the application and
395 the results of the cost/benefit analysis. The State Tax
396 Commission may require the qualified establishment to submit such
397 additional information as may be necessary to administer the
398 provisions of this act. The approved establishment shall report
399 to the State Tax Commission periodically to show its continued
400 eligibility for incentive payments. The establishment may be

401 audited by the State Tax Commission to verify such eligibility.
402 Once the establishment is approved, an agreement shall be deemed
403 to exist between the establishment and the State of Mississippi,
404 requiring the continued incentive payment to be made as long as
405 the establishment retains its eligibility.

406 (8) An establishment in a county designated as a less
407 developed area under Section 57-71-21, in which is eligible to
408 receive quarterly incentive payments pursuant to the provision of
409 this section shall receive the maximum total benefit; provided,
410 however, the net benefit rate shall not exceed five percent (5%)
411 of the total benefit.

412 SECTION 6. (1) There is created in the State Treasury a
413 special fund to be known as the Mississippi Quality Jobs Program
414 Incentive Payment Fund, into which shall be deposited such money
415 as the Legislature may provide by appropriation. The money in the
416 fund shall be used for the purpose of making the incentive
417 payments authorized under this act.

418 (2) The Mississippi Quality Jobs Program Incentive Payment
419 Fund shall be administered by the State Tax Commission, and monies
420 in the fund shall be expended upon appropriation by the
421 Legislature. Unexpended amounts remaining in the fund at the end
422 of the fiscal year shall not lapse into the General Fund, and any
423 interest earned on amounts in the fund shall be deposited to the
424 credit of the fund.

425 (3) The liability of the State of Mississippi to make the
426 incentive payments authorized under this act shall be limited to
427 the balance contained in the fund.

428 SECTION 7. (1) As soon as practicable after the end of a
429 calendar quarter for which an establishment has qualified to
430 receive an incentive payment, the establishment shall file a claim
431 for the payment with the State Tax Commission and shall specify
432 the actual number and gross payroll of new direct jobs for the
433 establishment for the calendar quarter. The State Tax Commission

434 shall verify the actual gross payroll for new direct jobs for the
435 establishment for such calendar quarter. If the State Tax
436 Commission is not able to provide such verification utilizing all
437 available resources, the State Tax Commission may request such
438 additional information from the establishment as may be necessary
439 or may request the establishment to revise its claim.

440 (2) If the actual verified gross payroll for four (4)
441 consecutive calendar quarters does not equal or exceed the
442 applicable total required by Section 5 of this act within three
443 (3) years of the date of the first incentive payment, or does not
444 equal or exceed the applicable total required by Section 5 of this
445 act at any other time during the ten-year period after the date
446 the first payment was made, the incentive payments shall not be
447 made and shall not be resumed until such time as the actual
448 verified gross payroll equals or exceeds the amounts specified in
449 Section 5 of this act.

450 (3) If the average annualized wage required for an
451 establishment locating its principal business activity in a county
452 classified as a developed area under Section 57-71-21 and subject
453 to the provisions of Section 5(6) of this act does not equal or
454 exceed Twenty Thousand Dollars (\$20,000.00) within three (3) years
455 of the date of the first incentive payment, the incentive payments
456 shall not be made and shall not be resumed until such time as such
457 requirements are met.

458 (4) In no event shall incentive payments, cumulatively,
459 exceed the estimated net direct state benefits.

460 (5) An establishment that has qualified pursuant to Section
461 5 of this act may receive payments only in accordance with the
462 provisions under which it initially applied and was approved. If
463 an establishment that is receiving incentive payments expands, it
464 may apply for additional incentive payments based on the gross
465 payroll anticipated from the expansion only, pursuant to Section 5
466 of this act.

467 (6) An establishment that is receiving incentive payments
468 may not apply for additional incentive payments for any new
469 projects until twelve (12) quarters after receipt of the first
470 incentive payment, or until the establishment's actual verified
471 gross payroll for new direct jobs equals or exceeds Two Million
472 Five Hundred Thousand Dollars (\$2,500,000.00) during any four (4)
473 consecutive calendar quarter period, whichever comes first. After
474 meeting the requirements of this subsection, an establishment may
475 apply for additional incentive payments based upon the gross
476 payroll anticipated from an expansion only.

477 (7) As soon as practicable after verification of the actual
478 gross payroll as required by this section and except as otherwise
479 provided by Section 5(8) of this act, the State Tax Commission
480 shall issue a warrant to the establishment in the amount of the
481 net benefit rate multiplied by the actual gross payroll as
482 determined pursuant to subsection (1) of this section for the
483 calendar quarter.

484 SECTION 8. The Department of Economic and Community
485 Development and the State Tax Commission shall promulgate rules
486 necessary to implement their respective duties and
487 responsibilities under the provisions of this act.

488 SECTION 9. Any person making an application, claim for
489 payment or any report, return, statement or other instrument or
490 providing any other information pursuant to the provisions of this
491 act who willfully makes a false or fraudulent application, claim,
492 report, return, statement, invoice or other instrument or who
493 willfully provides any false or fraudulent information, or any
494 person who willfully aids or abets another in making such false or
495 fraudulent application, claim, report, return, statement, invoice
496 or other instrument or who willfully aids or abets another in
497 providing any false or fraudulent information, upon conviction,
498 shall be guilty of a felony punishable by the imposition of a fine
499 of not less than One Thousand Dollars (\$1,000.00) and not more

500 than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the
501 State Penitentiary for not less than two (2) years and not more
502 than five (5) years, or by both such fine and imprisonment. Any
503 person convicted of a violation of this section shall be liable
504 for the repayment of all incentive payments which were paid to the
505 establishment. Interest shall be due on such payments at the rate
506 of ten percent (10%) per annum.

507 SECTION 10. The Department of Economic and Community
508 Development shall prepare triennially a report which shall
509 include, but not be limited to, documentation of the new direct
510 jobs created under this act and a fiscal analysis of the costs and
511 benefits of the program to the state. The report shall be
512 submitted to the Speaker of the House of Representatives, the
513 President Pro Tempore of the Senate and the Governor of this state
514 no later than March 1, 2003, and every three (3) years thereafter.
515 The report may be used for the purpose of determining whether to
516 continue the program.

517 SECTION 11. This act shall take effect and be in force from
518 and after July 1, 2000.